

**DECISION  
AND  
FINDING OF NO SIGNIFICANT IMPACT  
FOR  
PREDATOR DAMAGE MANAGEMENT IN EASTERN MONTANA**

The U.S. Department of Agriculture, Animal and Plant Health Inspection Service (USDA-APHIS), Wildlife Services (WS) program responds to a variety of requests for assistance from individuals, organizations and agencies experiencing damage caused by wildlife. (Wildlife Services was previously called Animal Damage Control but USDA, APHIS changed their name on August 1, 1997.) Ordinarily, according to APHIS procedures implementing the National Environmental Policy Act (NEPA), individual wildlife damage management actions are categorically excluded (7 CFR 372.5(c), 60 Fed. Reg. 6000-6003, 1995). To evaluate and determine if any potentially significant impacts to the human environment from WS's planned and proposed program would occur, an environmental assessment (EA) was prepared. The Pre-decisional EA, released by WS in June 1997, documented the need for predator damage management in eastern Montana and assessed potential impacts of various alternatives for responding to wildlife damage problems. WS's proposed action is to implement an Integrated Wildlife Damage Management (IWDM) program on all land classes in eastern Montana to protect livestock, public health and safety, property and wildlife from predator damage, as requested and appropriate.

The EA analyzes the potential environmental and social effects for preventing or resolving predator damage related to the protection of livestock, wildlife, property, and to safeguard public health and safety on private and public lands in eastern Montana. The analysis area includes lands under the jurisdiction of the U.S. Forest Service (Forest Service), Bureau of Land Management (BLM), U.S. Fish and Wildlife Service (USFWS), Montana Department of State Lands (MDSL), American Indian Reservation lands, and county, municipal and private lands. In 1995, Montana WS had active agreements to conduct predator damage management on about 12.8 million acres (20,000 mi<sup>2</sup>) of State and private lands or about 26.7% of the analysis area (MIS 1995) (MIS data year corresponds to the Federal fiscal year). Also in 1995, WS had authorization to conduct predator damage management on Forest Service and BLM lands that equaled about 6% of the total public land area in Montana. Comments from public involvement letters and from the Pre-Decisional EA were reviewed for substantive issues and alternatives which were considered in developing this decision. The analysis and supporting documentation are available for review by contacting the U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, P. O. Box 1938, Billings, Montana 59103.

WS is the Federal program charged by law to reduce damage caused by wildlife (Animal Damage Control Act of March 2, 1931, as amended (46 Stat. 1486; 7 U.S.C. 426-426c) and the Rural Development, Agriculture, and Related Agencies Appropriations Act of 1988, Public Law 100-102, Dec. 27, 1987. Stat. 1329-1331 (7 U.S.C. 426c). Wildlife damage management is the alleviation of damage or other problems caused by or related to the presence of wildlife, and is recognized as an integral part of wildlife management (The Wildlife Society 1992). WS uses an IWDM approach, commonly known as Integrated Pest Management (ADC Directive 2.105) in which a combination of methods may be used or recommended to reduce damage. WS predator damage management is not based on punishing offending animals but as one means of reducing damage and is used as part of the ADC Decision Model (Slate et al. 1992, USDA 1994, ADC Directive 2.201). The imminent threat of damage or loss of resources is often deemed sufficient for wildlife damage management actions to be initiated (U.S. District Court of Utah 1993). Livestock producers and wildlife management agencies have requested WS to conduct predator damage management to protect livestock, wildlife and threatened and endangered (T&E) species in Montana. All Montana WS predator damage management is in compliance with relevant laws, regulations, policies, orders and procedures, including the Endangered Species Act (ESA) of 1973.

WS cooperates with the Forest Service, BLM, USFWS, Montana Department of Fish, Wildlife and Parks (MFWP), Montana Department of Livestock (MDOL) and MDSL to reduce predator damage. The MFWP has the responsibility to manage all wildlife in Montana, including Federally listed T&E species and migratory birds, which is a joint responsibility with the USFWS. Memoranda of Understanding (MOUs) signed between APHIS-WS and the Forest Service, BLM, MFWP, MDOL and American Indian Tribes clearly outline the responsibility, technical

expertise and coordination between agencies. The MOUs with the Forest Service and BLM provide guidance for compliance with the National Environmental Policy Act (NEPA) and the basis for the interdisciplinary process used to develop the EA. A Multi-agency Team with representatives and advisors from each of the cooperating agencies provided input during the development of the EA. The Forest Service and BLM cooperated with Montana WS to determine whether the proposed action is in compliance with relevant laws, and Forest Service or BLM regulations, policies, orders, and procedures. All Montana WS wildlife damage management is conducted consistent with the ESA and the Section 7 Consultation with the USFWS.

Within Montana, cattle and sheep are permitted to graze on Federal lands administered by the Forest Service, USFWS and BLM, and on State, Tribal and private lands. As proposed in the EA, Montana WS would protect livestock, wildlife, property, and public health and safety, as requested and appropriate, on all land classes in eastern Montana.

A Pre-decisional EA was prepared and released to the public for a 30-day comment period. Notice of availability of the Pre-decisional EA was also published in the seven major newspapers in Montana. A total of six comment letters were received in response to the Pre-decisional EA. Documentation of the public involvement effort, including comment letters and specific responses to all the issues identified in those letters, is available for public review from the WS State Director's office in Billings, Montana.

This EA was prepared to evaluate and determine if any potentially significant impacts occur to the human environment from the proposed action. As noted on page 1-6 of the EA, an EA was prepared by BLM to assess the potential impacts of WS's predator damage management activities for the Miles City and eastern portions of the Lewistown BLM Districts. This EA also resulted in a finding of no significant impact (FONSI). The WS EA has taken a harder look at the impacts of WS's activities than any other predator damage management EA in eastern Montana, but it has similarly resulted in a FONSI. The WS Program has determined that an EIS is not required and that preparation of an EA for the Montana WS program complies with NEPA, the Council on Environmental Quality (CEQ) NEPA implementing regulations (40 CFR 1500) and with APHIS NEPA implementing regulations (7 CFR 372).

### **Consistency**

Predator damage management activities are consistent with MOUs and policies of APHIS-WS, Federal and State agencies, and the EA. Any work plans developed for predator damage management, pursuant to this decision, will be consistent with the direction provided in management plans. On Federally managed lands, public safety and environmental concerns are adequately mitigated through jointly developing Work Plans or other comparable documents with WS and the Forest Service, USFWS, or BLM. The Forest Service, BLM and USFWS may, at times, restrict predator damage management that concerns public safety or resource values; modifications may also be made in areas where predator damage management occurs. All predator damage management will be conducted in a manner consistent with the ESA and the Section 7 Consultation with the USFWS.

The analyses in the EA demonstrate that Alternative 2 provides WS the best opportunity to reduce losses while maintaining low impacts on: 1) nontarget species and 2) designated wildlife and T&E species. Alternative 2 best: 1) addresses the issues identified in the EA and provides the environmental safeguards for public safety, 2) balances the economic effects of livestock losses to Forest Service and BLM permittees and private land owners, and the concerns for the other multiple use values of the Forest Service and BLM and 3) allows WS to meet its obligations to the MFWP, MDOL and other cooperating agencies or entities.

### **Monitoring**

The Montana WS program will provide the WS take of target and nontarget animals to the MFWP to determine if the total statewide take is within allowable harvest levels as determined by the MFWP. Nonlethal methods used by cooperators will be tracked using the WS MIS database once this capability is developed.

## Public Involvement

Before development of the EA, 604 letters were mailed to individuals and organizations identified as having an interest in WS issues. Notices of the proposed action, availability of the public involvement letter and availability of the Pre-decisional EA were also published in the seven major newspapers in Montana. A total of 70 comment letters or cards were received during the initial public involvement period and six comment letters were received on the Pre-Decisional EA. These letters were reviewed to identify any additional substantive issues to be addressed.

## Major Issues

The EA describes the alternatives considered and evaluated using the identified issues. The following issues were identified as important to the scope of the analysis (40 CFR 1508.25).

1. Cumulative impacts on the viability of wildlife populations - the potential for the WS take of predators to cause long-term predator population declines, when added to other mortality
2. Effectiveness and selectivity of damage management methods
3. Risks posed by damage management methods to the public and domestic pets
4. Concern about WS impacts on T&E species.
5. Cost-effectiveness of WS activities.

## Alternatives That Were Fully Evaluated

The following Alternatives were developed by the Multi-agency Team to respond to the issues. Six additional alternatives were considered but not analyzed in detail. A detailed discussion of the effects of the Alternatives on the issues is described in the EA; below is a summary of the Alternatives and issues.

**Alternative 1. No Action - Continue the current Montana WS Program.** The No Action Alternative was analyzed and used as a baseline for comparing the effects of the other Alternatives as required by 40 CFR 1502.14(d). This alternative consists of the current program of technical assistance and operational IWDM (ADC Directive 2.105) by Montana WS on the Miles City and eastern portions of the Lewistown BLM Districts, National Forests, Tribal, State, county, municipal, and private lands under Cooperative Agreement and Agreement for Control with Montana WS. The current program direction is primarily for the protection of agricultural resources and public health and safety.

**Alternative 2. Integrated Wildlife Damage Management for Multiple Resources and Land Classes: (Proposed Alternative).** This alternative would allow for predator damage management based on the needs of multiple resources (livestock, wildlife, property, and public health and safety) and would be implemented following consultations with the MFWP, MDOL, Federal agencies or Tribes, as appropriate. This alternative would allow for a Federal WS program to protect multiple resources on all land classes at the request of the land management agency or individual if a Cooperative Agreement, Agreement for Control and/or a Work Plan with Montana WS, as appropriate, are in place. Alternative 2 best conforms to the MOUs between WS and Federal and State agencies that mutually recognize that the management of wildlife damage is important and may involve the management of predator damage to achieve land and resource management objectives. Analysis of Alternative 2 showed low level of impact for the target species, nontarget species and T&E species.

**Alternative 3. A Corrective Only Predator Damage Management Program.** This alternative would require that livestock depredation occur before the initiation of lethal damage management. No preventive lethal control would be allowed. This alternative would not allow for any preventive damage management and management could only be implemented after the onset of losses. Alternative 3 was not selected because it: 1) is often difficult to remove offending coyotes quickly enough to prevent further losses once predation has begun and 2) does not allow WS to

meet its statutory directives. Under Alternative 3, WS could conduct predator damage management only after verification of livestock losses. WS is charged by law to minimize damage caused by wildlife and this was reaffirmed by a recent court decision (U. S. District Court of Utah 1993). The alternative would delay management of problem wildlife while verification of losses occurred and management actions could be implemented.

**Alternative 4. Nonlethal Control Required Prior to Lethal Control.** This alternative would require that nonlethal damage management be implemented before the initiation of lethal predator damage management by Montana WS. This alternative was not selected because no standard exists to determine diligence in applying nonlethal methods nor are there any standards to determine how many nonlethal applications are necessary before initiation of lethal controls. WS is charged by law to reduce damage caused by wildlife and this was reaffirmed in a recent court decision (U. S. District Court of Utah 1993). Consideration of wildlife protection is not included with the non-lethal methods currently available nor could WS base control strategies on the needs of designated wildlife.

**Alternative 5. Technical Assistance Program.** Under this alternative, Montana WS would not conduct operational predator damage management in eastern Montana. The entire program would consist of only technical assistance and all operational wildlife damage management in eastern Montana would be eliminated. Alternative 5 was not selected because it was inconsistent with Forest Service and BLM policy, and it is likely the Forest Service and BLM could not meet their management guidelines.

**Alternative 6. No Predator Damage Management in the Eastern Montana Analysis Area.** This alternative would terminate the Federal Predator Damage Management program in eastern Montana. Alternative 6 was not selected because WS is charged by law and reaffirmed by a recent court decision to reduce damage caused by wildlife (U. S. District Court of Utah 1993). This alternative would not allow WS to meet its statutory responsibility for providing assistance or to reduce wildlife damage. Alternative 6 violates the MOU between APHIS-WS and Federal and State agencies whereby it is mutually recognized that management of wildlife damage is important and may involve the predator damage management to achieve land and resource management objectives.

**Alternatives Considered but not Analyzed in Detail are the Following:**

**Compensation for Wildlife Damage Losses** - The Compensation alternative would direct all Montana WS program efforts and resources to the verification of livestock and poultry losses from predators and providing monetary compensation to the producers. WS services would not include any direct damage management nor would technical assistance or nonlethal methods be provided. This alternative was eliminated from detailed analysis in WS's Programmatic EIS (USDA 1994) because of many disadvantages such as: (1) the alternative would require large expenditures of money and a large work force to investigate and validate all losses and to determine and administer appropriate compensation, (2) compensation would likely be below full market value and many losses could not be verified, (3) compensation would give little incentive to livestock owners to limit predation through improved husbandry practices and other management strategies, (4) not all ranchers would rely completely on compensation and lethal control of predators would most likely continue as permitted by State law, and (5) Congress has not appropriated funds to compensate for predation or other wildlife damage to agricultural products.

**The Humane Society of the United States (HSUS) Alternative** - The HSUS proposed an alternative that requires: 1) "*permittees evidence sustained and ongoing use of nonlethal/husbandry techniques aimed at preventing or reducing predation prior to receiving the services of the ADC Program*"; 2) "*employees of the ADC Program use or recommend as a priority the use of appropriate nonlethal techniques in response to a confirmed damage situation*"; 3) "*lethal techniques are limited to calling and shooting and ground shooting, and used as a last resort when use of husbandry and/or nonlethal controls have failed to keep livestock losses below an acceptable level*"; and 4) "*establish higher levels of acceptable loss levels on public lands than for private lands.*"

The components of this proposed alternative by the HSUS have been analyzed in detail in the alternatives contained in this EA and through court rulings. The HSUS alternative would not allow for a full range of IWDM techniques to resolve predator damage management problems. In addition, WS is directed by Congress to protect American agriculture, natural resources, property, and safeguard public health and safety, despite the cost of damage



management. Further, the Southern Utah Wilderness Society, The Wilderness Society et al. vs. Hugh Thompson et al. U.S. Forest Service (U.S. District Court of Utah 1993) the court clearly states that, "*The agency need not show that a certain level of damage is occurring before it implements an ADC program. . . . Hence, to establish need for an ADC, the forest supervisors need only show that damage from predators is threatened.*" In other words, it is not necessary to establish a criterion, such as percentage of loss of a herd to justify the need for wildlife damage management. The alternatives and option selected for detailed analysis in this EA include many of the suggestions in the HSUS proposal, and it is believed that inclusion of this alternative would not contribute new information or options for consideration and analysis that are not already being considered and available in IWDM as used by WS.

**Bounties Alternative** - Bounties are payment of funds for killing predators (bounties) suspected of causing economic losses. They have typically proven ineffective in reducing predator damage and not supported by Montana State agencies such as MFWP and MDOL. WS concurs with these agencies because:

- WS does not have the authority to establish a bounty program
- Bounties are generally not as effective or practical in controlling damage
- Circumstances surrounding take of animals is completely unregulated
- No process exists to prohibit taking of animals from outside the damage management area for compensation purposes or the use of illegal methods
- Enormous expense and cumbersome administrative logistics

A bounty system encourages harvest of predators at times and places when coyotes are easiest and cheapest to harvest. However, the measure of success is not in how many coyotes are killed, but in how much damage is reduced. Many damage problems occur at times and in places where it is difficult to remove depredate predators.

**Extermination and Suppression Alternative** - An extermination and suppression alternative would direct all Montana WS program efforts toward planned, total elimination of native predatory species. Extermination of unprotected predators, such as coyotes, is legal in Montana (Montana Code Annotated (MCA) 81-7-102) but not supported by MFWP or MDOL. The Natural Areas Act contains a statement recognizing the importance of and need to protect ecosystems (MCA 76-12-103). Montana has an endangered species act that covers animals and listings are based on scientific data (Defenders of Wildlife and the Center for Wildlife Law 1996). This alternative was not considered by Montana WS in detail because: (1) WS is opposed to the extermination of any native wildlife species, (2) MFWP and MDOL oppose the extermination of any native Montana wildlife species, (3) the extermination of a native species or local population would be extremely difficult, if not impossible, to accomplish, (4) would be cost prohibitive, and (5) extermination is not acceptable to most people.

Suppression would direct WS program efforts toward managed reduction of certain wildlife populations or groups. In localized areas where damage can be attributed to predation by specific groups, MFWP has the authority to increase hunting seasons and hunter tag quotas; the MDOL has the authority to control unprotected predators, such as coyotes. When a large number of requests for predator damage management are generated from a localized area, WS would consider suppression of the local population or groups of the offending species, if appropriate.

It is not realistic, practical, or allowable under present WS policy to consider large-scale population suppression as the basis of the WS program. Typically, WS activities in the analysis area would be conducted on a very small portion of the area.

**Threshold of Loss and Livestock Losses are a Cost of Doing Business Alternative** - This alternative would not allow any predator damage management until economic losses became unacceptable. Although some losses of livestock and poultry can be expected and tolerated by livestock producers, WS has the legal responsibility to respond to requests for predator damage management, and it is program policy to aid each requester to minimize losses. WS uses the Decision Model, discussed on page 3-4 of the EA to determine an appropriate strategy.

In the Southern Utah Wilderness Society, The Wilderness Society et al. vs. Hugh Thompson et al., Forest Supervisor for the Dixie NF, U.S. Forest Service (U.S. District Court of Utah 1993), the court clearly states that, "*The agency*

*need not show that a certain level of damage is occurring before it implements an ADC program. . . .Hence, to establish need for an ADC, the forest supervisors need only show that damage from predators is threatened."* In other words, it is not necessary to establish a criterion, such as percentage of loss of a herd to justify the need for wildlife damage management.

### **Finding of No Significant Impact**

The analysis in the EA indicates that there will not be a significant impact, individually or cumulatively, on the quality of the human environment as a result of this proposed action. I agree with this conclusion and therefore find that an EIS need not be prepared. This determination is based on the following factors:

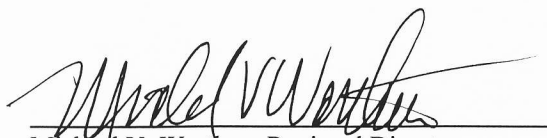
1. Predator damage management, as conducted by WS in eastern Montana, is not regional or national in scope.
2. No injuries to any member of the public are known to have resulted from WS activities in the analysis area. The proposed action would pose minimal risk to public health and safety.
3. There are no unique characteristics such as park lands, prime farm lands, wetlands, wild and scenic areas, or ecologically critical areas that would be significantly affected.
4. The effects on the quality of the human environment are not highly controversial. Although there is some opposition to predator control, this action is not highly controversial in terms of size, nature, or effect.
5. Based on the analysis documented in the EA and the accompanying administrative file, the effects of the proposed predator damage management program on the human environment would not be significant. The effects of the proposed activities are not highly uncertain and do not involve unique or unknown risks.
6. The proposed action would not establish a precedent for any future action with significant effects.
7. No significant cumulative effects were identified through this assessment. The number of animals taken by WS, when added to the total known other take of all species, falls well within allowable harvest levels.
8. The proposed activities would not affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, nor would they likely cause any loss or destruction of significant scientific, cultural, or historical resources.
9. An informal Section 7 consultation with the USFWS confirmed that the proposed action would not likely adversely affect any T&E species.
10. The proposed action would be in compliance with all Federal, State, and local laws imposed for the protection of the environment.

### **Decision and Rationale**

I have carefully reviewed the EA and the input from the public involvement process. I believe that the issues identified in the EA are best addressed by selecting Alternative 2 (Current Program Plus Additional Activities on Public Lands as Requested - Proposed Alternative in the EA) and applying the associated mitigation and monitoring measures discussed in Chapter 3 of the EA. Alternative 2 would provide the greatest effectiveness and selectivity of methods available, the best cost-effectiveness, and has the potential to even further reduce the current low level of risk to the public, pets, and T&E species. WS will continue to use all currently authorized predator damage management methods in compliance with all the applicable mitigation measures listed in Chapter 3 of the EA. I have also adopted the Pre-Decisional Predator Damage Management in Eastern Montana EA as the final. Most comments identified from public involvement were minor and did not change the analysis.

For additional information regarding this decision, please contact Larry Handegard, APHIS-WS, P.O. Box 1938,

Billings, Montana 59103, telephone (406) 657-6464.

A handwritten signature in black ink, appearing to read "Michael V. Worthen", written over a horizontal line.

Michael V. Worthen, Regional Director  
APHIS-WS Western Region

9-11-97

Date

**Literature Cited:**

ADC Directive 2.105. The ADC Integrated Wildlife Damage Management Program

ADC Directive 2.201 ADC Decision Model

CEQ. 1981. Forty most asked questions concerning CEQ's NEPA regulations. (40 CFR 1500-1508) Fed. Reg. 46(55): 18026-18038.

Connolly, G. E., and W. M. Longhurst. 1975. The effects of control on coyote populations. Div. of Agric. Sci., Univ. of California Davis. Bull. 1872. 37 pp.

Connolly, G. E. 1992. Declaration of Guy Connolly for United States District Court of Utah. Civil No. 92-C-0052A.

Defenders of Wildlife and the Center for Wildlife Law. 1996. Saving biodiversity: a status report on State laws, policies and programs. Defenders Wildl. and Center for Wildl. Law, Washington, D.C. 218pp.

Knowlton, F. F. 1989. Predator biology and livestock depredation management. Amer. Soc. Anim. Sci. 40:504-509.

USDA (U.S. Department of Agriculture). Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS). 1994. Final Environmental Impact Statement. USDA, APHIS, WS Operational Support Staff, 4700 River Road, Unit 87, Riverdale, MD 20737.

U.S. District Court of Utah. 1993. Civil No. 92-C-0052A.

Windberg, L.A., F.F Knowlton, S.M. Ebbert, and B.T. Kelly. 1997. Aspects of coyote predation on angora goats. J. Range Manage. 50: 226-230.